

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MYRA S. SMITH,

Plaintiff,

-against-

CITY OF NEW YORK,

Defendant.

No. 1:23-cv-08229 (JLR) (RWL)

ORDER

JENNIFER L. ROCHON, United States District Judge:

Plaintiff brings this action against Defendant asserting claims of discrimination (based on race, ethnicity and age), retaliation, harassment, and obstruction of justice. *See generally* Dkt. 1. On July 25, 2024, Plaintiff moved for preliminary injunctive relief against harassment by two employees of the New York City Police Department (“NYPD”). Dkt. 26. On October 1, 2024, Magistrate Judge Robert W. Lehrburger issued a report and recommendation recommending that Plaintiff’s motion be denied because “she ha[d] not established the requisite likelihood of irreparable harm” in the absence of preliminary relief. Dkt. 38 at 5. The Court adopted the report and recommendation in full on October 25, 2024. Dkt. 40.

On October 22, 2024, Plaintiff filed a second motion for preliminary injunctive relief to prohibit the NYPD from changing her schedule except as previously agreed. Dkt. 41. Currently before the Court is the report and recommendation of Judge Lehrburger dated November 14, 2024, Dkt. 46 (the “Report and Recommendation” or “R&R”), recommending that Plaintiff’s second motion for preliminary injunctive relief be denied “for the same reason as the earlier denial — failure to demonstrate irreparable harm in the absence of injunctive relief,” *id.* at 1.


Under 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure (“Rule”) 72(b), Plaintiff had seventeen days from the service of the Report and Recommendation to file

written objections. *See also* Fed. R. Civ. P. 6(d) (adding three additional days when service is made by mail). That time has expired, and no objections have been filed.

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b), the Court has reviewed the Report and Recommendation for clear error. *See Gomez v. Brown*, 655 F. Supp. 2d 332, 341 (S.D.N.Y. 2009) (noting that, with respect to “uncontested portions of a report and recommendation, a district court need only satisfy itself that there is no clear error on the face of the record”). “A decision is ‘clearly erroneous’ when the reviewing Court is left with the definite and firm conviction that a mistake has been committed.” *Royal Park Invs. SA/NV v. Deutsche Bank Nat’l Tr. Co.*, No. 14-cv-04394 (AJN), 2018 WLL 1750595, at *21 (S.D.N.Y. Apr. 11, 2018). Having reviewed Judge Lehrburger’s report, the Courts finds it to be free from clear error. Therefore, the Court adopts the Report and Recommendation of Judge Lehrburger in its entirety and denies Plaintiff’s second motion for a preliminary injunction.

Dated: January 8, 2025
New York, New York

SO ORDERED.


JENNIFER L. ROCHON
United States District Judge